

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 2, 2008. Claims 1-20 were pending in the Application. In the Office Action, Claims 1-20 were rejected. In order to expedite prosecution of this Application, Applicant amends Claims 1, 6, and 12. Thus, Claims 1-20 remain pending in the Application. Applicant respectfully requests reconsideration and favorable action in this case.

In the Office Action, the following actions were taken or matters were raised:

SUMMARY OF EXAMINER INTERVIEW

Applicant thanks the examiner for the interview held on April 21, 2008 between the examiner and Applicant's representative, Hope C. Shimabuku. The objection to the title of the present application was discussed. During the interview, the Examiner agreed to withdraw the specification objection to the title.

SPECIFICATION OBJECTIONS

The Examiner objected to the title of the invention as not being descriptive. This objection was withdrawn by the Examiner during the Examiner Interview.

SECTION 102 REJECTIONS

Claims 1-2, 4-6, 11-12 and 16-20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,279,113 issued to Vaidya (hereinafter "*Vaidya*").¹ Applicant respectfully traverses this rejection.

Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131.

¹ Applicant assumes that this rejection also applies to Claims 4, 5, and 11 as the Examiner addressed each of the Claims on Page 3, but did not specifically list these claims under the initial rejection on page 2 of the Office Action dated April 2, 2008.

Of the rejected claims, Claims 1, 6, and 12 are independent. Claim 1 recites “a network query server residing in a second network protected by a firewall, the network query server operable to collect usage data associated with the second network and respond to at least one query regarding usage of the second network from the network query client, the at least one query formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism.” (emphasis added). Applicant respectfully submits that *Vaidya* does not disclose or even suggest all the limitations of Claim 1. For example, *Vaidya* appears to disclose a network intrusion detection system having a central data repository 12 and a router/firewall/switch 20 located in a network 11, where network 11 is coupled to a remote network 24 comprising a data collector 10. (*Vaidya*, column 5, lines 5-8 and 39-40 and Figure 1). In *Vaidya*, the central data repository 12 appears to poll the various data collectors 10 for intrusion detection data to detect whether the network security is being violated. (*Vaidya*, column 5, lines 47-48). However, nowhere in *Vaidya* is there any disclosure or even suggestion that the central data repository 12 of *Vaidya* collects “usage data” or communicates with the various data collectors 10 using “HTTP as the underlying transport mechanism” as recited by Claim 1. Thus, *Vaidya* does not disclose or even suggest all the limitations of Claim 1. Accordingly, for at least this reason, Applicant respectfully requests that the rejection of Claim 1 be withdrawn.

Furthermore, Applicant respectfully submits that *Vaidya* teaches away from modifying the *Vaidya* invention with the concepts of *Skonnard*.² For example, *Skonnard* appears to disclose that SOAP relies on HTTP as a transport mechanism, and, since most firewalls allow HTTP to pass through, communications using SOAP endpoints can also pass through firewalls. (*Skonnard*, page 2). Typically, web browsing and email communications are the only types of communications which are allowed to pass through firewalls using HTTP as the transport mechanism. Usage data is generally considered confidential information which is blocked by a firewall. *Vaidya*, as shown above, appears to be an intrusion detection system which prevents unauthorized access to the various devices within network 11. Therefore, confidential information, such as usage data, is the type of data which *Vaidya* is designed to protect and prevent external devices from accessing. Thus, the modification of *Vaidya* to enable an external device to bypass the router/firewall/switch 20 of *Vaidya* using the concepts of *Skonnard* would

² “SOAP” The Simple Object Access Protocol” by Skonnard (hereinafter “*Skonnard*”).

contradict the basis for the *Vaidya* system. Thus, *Vaidya* appears to teach away from modifying the *Vaidya* invention with the concepts of *Skonnard*. In fact, any proposed modification of the *Vaidya* system as proposed by the Examiner based on *Skonnard* (e.g., as asserted by the Examiner with respect to Claim 1) would appear to remedy *Vaidya* ineffective for its intended purpose. Therefore, Applicant respectfully submits that the combination of *Vaidya* and *Skonnard* does not disclose or even suggest all the limitations of Claim 1. Accordingly, for at least these reasons, Applicants respectfully submit that Claim 1 is patentable over *Vaidya*.

Claim 6 recites “receiving, by the network query server, at least one network usage query from the network query client, the at least one query formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism” (emphasis added). For at least the reasons discussed above in connection with independent Claim 1, Applicant respectfully submits that Claim 6 is also patentable over *Vaidya*.

Claim 12 recites “sending, by the network query client, at least one network usage query to the network query server, the at least one query formatted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism” (emphasis added). For at least the reasons discussed above in connection with independent Claim 1, Applicant respectfully submits that Claim 12 is also patentable over *Vaidya*.

Claims 2, 4-5, 11, and 16-20 depend from respective independent Claims 1, 6, and 12 and, therefore, are also patentable over *Vaidya* at least because they incorporate the limitations of respective Claims 1, 6, and 12 and also recite additional limitations that further distinguish *Vaidya*. Accordingly, Applicants respectfully request that the rejections of Claims 1-2, 4-6, 11-12 and 16-20 under 35 U.S.C. 102(b) be withdrawn.

SECTION 103 REJECTIONS

Claims 3, 7-8 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Vaidya* as applied to Claims 1, 6 and 12 above and further in view of *Skonnard*. Claims 7-8 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Vaidya* as applied to Claims 1, 6 and 12 above and further in view of *Skonnard*. Claims 9 and 14 were rejected under 35 USC §103(a) as being unpatentable over *Vaidya* as applied to Claims 1 and 12 above, and further in view of U.S. Patent No. 5,978,478 issued to Korematsu (hereinafter “*Korematsu*”). Claim 10 was rejected under 35 USC §103(a) as being unpatentable over

Vaidya and *Korematsu* as applied to Claims 6 and 9 and further in view of U.S. Patent Publication No. 2002/0049909 issued to Jackson et al. (hereinafter "*Jackson*"). Claim 15 was rejected under 35 USC §103(a) as being unpatentable over *Vaidya* as applied to Claim 12 and further in view of U.S. Patent No. 7,137,139 issued to Smith (hereinafter "*Smith*"). Applicants respectfully traverse these rejections.

Vaidya in view of Skonnard: Claims 3, 7-8, and 13

Claims 3, 7-8 and 13 depend from respective independent Claims 1, 6 and 12. As shown above, Claims 1, 6, and 12 are patentable over *Vaidya*. Therefore, for at least this reason, Claims 3, 7-8 and 13 which depend from respective independent Claims 1, 6 and 12 are also patentable over *Vaidya*. *Skonnard* does not appear to remedy at least the deficiencies of *Vaidya* indicated above. In fact, as discussed above, *Vaidya* appears to teach away from modifying the *Vaidya* invention with the concepts of *Skonnard*. In fact, any proposed modification of the *Vaidya* system as proposed by the Examiner based on *Skonnard* (e.g., as asserted by the Examiner with respect to Claims 1, 6 and 12) would appear to remedy *Vaidya* ineffective for its intended purpose. Accordingly, for at least this reason, Applicant respectfully submits that Claims 3, 7-8 and 13 are patentable over the references.

Vaidya in view of Korematsu: Claims 9 and 14

Claims 9 and 14 depend from respective independent Claims 6 and 12. As shown above, Claims 6 and 12 are patentable over *Vaidya* and *Korematsu*, alone and in combination. Therefore, for at least this reason, Claims 9 and 14 which depend from respective independent Claims 6 and 12 are also patentable over the combination of *Vaidya* and *Korematsu*. In fact, as discussed above, *Vaidya* appears to teach away from "at least one query converted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism" as recited by Independent Claims 6 and 12. Accordingly, for at least this reason, Applicant respectfully submits that Claims 9 and 14 are patentable over the references.

Vaidya and Korematsu in view of Jackson: Claim 10

Claim 10 depends from respective independent Claim 6. As shown above, Claim 6 is patentable over *Vaidya*. Also as shown above, Claim 9 is patentable over the combination of

Vaidya and *Korematsu*. Therefore, Claim 10 is patentable over *Vaidya* at least because Claim 10 depends from independent Claim 6. At least for the reasons in connection with Claim 9, Claim 10 is also patentable over the combination of *Vaidya* and *Korematsu*. *Jackson* does not appear to remedy at least the deficiencies of *Vaidya* and *Korematsu* indicated above. In fact, as discussed above, *Vaidya* appears to teach away from “at least one query converted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism” as recited by Claim 6. Accordingly, for at least this reason, Applicant respectfully submits that Claim 10 is patentable over the references.

Vaidya in view of Smith: Claim 15

Claim 15 depends from respective independent Claim 12. As shown above, Claim 12 is patentable over *Vaidya*. Therefore, Claim 15 is patentable over *Vaidya* at least because Claim 12 depends from independent Claim 6. *Smith* does not appear to remedy at least the deficiencies of *Vaidya* indicated above. In fact, as discussed above, *Vaidya* appears to teach away from “at least one query converted to enable transmission using Hypertext Transfer Protocol (HTTP) as the underlying transport mechanism” as recited by Claim 12. Accordingly, for at least this reason, Applicant respectfully submits that Claim 15 is patentable over the references.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

An RCE filing fee of \$810.00 is believed due. The Director of Patents and Trademarks is hereby authorized to charge Deposit Account No. 08-2025 of Hewlett-Packard Company in the amount of \$810.00 to satisfy the RCE filing fee. If, however, Applicant has miscalculated the fee due with this RCE, the Director is hereby authorized to charge any fees or credit any overpayment associated with this RCE to Deposit Account No. 08-2025 of Hewlett-Packard Company. If, however, Applicant has overlooked the need for any fee due with this Response, the Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this Response to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,

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Date: July 1, 2008

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